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FAX FILING IN U.S. PATENT & TRADEMARK OFFICE

DATE: February 20, 2006

TIME: _____

TO:	Examiner Loan H. Thanh	FAX NO.:	(703) 872-9306 (571) 273-4966
FROM:	Joshua L. Cohen	ADMIN. ASST.:	Anne Pinto
APPLN. NO.:	10/087,579	ATTY. DOCKET NO.:	QDI-105US3
TITLE OF APPLN.: DEVICE AND METHOD FOR SAMPLE COLLECTION			
FILING DATE:	February 28, 2002	ART UNIT:	3763
FIRST INVENTOR:	Rod Miller	CONF. NO.:	5124
TITLE OF DOCUMENT (and List of Attachments): Terminal Disclaimer, Transmittal, Fee Trans (2)			

Total Number of Pages: 4 (including this form)

COMMENTS

Examiner Thanh,
Per your request, enclosed please find the Terminal Disclaimer. Any questions, please contact Joshua L. Cohen at (610) 993-4240.

CONFIDENTIAL AND PRIVILEGED ATTORNEY/CLIENT INFORMATION

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FEB 20 2006

PTO/SB/17 (12-04v2) (AW 1/2005)

Approved for use through 7/31/2008. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/04. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/087,579
		Filing Date	February 28, 2002
		First Named Inventor	Rod Miller
		Examiner Name	Loan H. Thanh
		Art Unit	3783
TOTAL AMOUNT OF PAYMENT (\$) 130		Attorney Docket No.	QDI-105US3

METHOD OF PAYMENT (check all that apply)
☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 18-0350 Deposit Account Name: RatnerPrestia

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayment of fee(s) ☒ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	—
Design	200	100	100	50	130	65	—
Plant	200	100	300	150	160	80	—
Reissue	300	150	500	250	600	300	—
Provisional	200	100	0	0	0	0	—

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Small Entity	
Fee (\$)	Fee (\$)
50	25
200	100
360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP =		x	=			
HP = Highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
- 3 or HP =		x	=			
HP = Highest number of independent claims paid for, if greater than 3						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(e).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =		/ 50 =	(round up to a whole number) x	=

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Terminal Disclaimer

Fees Paid (\$)

130

SUBMITTED BY		Complete (if applicable)	
Signature	<u>Joshua L. Cohen</u>	Registration No. Attorney/Agent	38,040
Name (Print/Type)	Joshua L. Cohen	Telephone	(610) 407-0700
		Date	February 20, 2006

This collection of information is required by 37 CFR 1.135. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FEB 20 2006

PTO/SB/21 (09-04) (AW 10/2004)

Approved for use through 7/31/2009. OMB 0651-0031

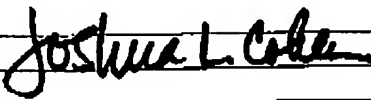
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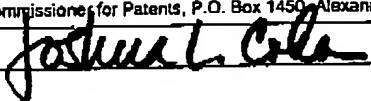
TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/087,579
	Filing Date	February 28, 2002
	First Named Inventor	Rod Miller
	Art Unit	3763
	Examiner Name	Loan H. Thanh
Total Number of Pages in This Submission		Attorney Docket No. QDI-105US3

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below):
Remarks:		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm Name	RatnerPrestia		
Signature			
Printed Name	Joshua L. Cohen		
Date	February 20, 2006	Registration No.	38,040

CERTIFICATE OF TRANSMISSION / MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or Printed Name	Joshua L. Cohen	Date	February 20, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, ALEXANDRIA, VA 22313-1450.

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PTO/SB/26 (09-04) (AW 10/2004)

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
QDI-105US3

In re Application of: Rod Miller et al.

Application No.: 10/087,579

Filed: February 28, 2002

For: DEVICE AND METHOD FOR SAMPLE COLLECTION

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The owner, Quest Diagnostics, Inc., of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term prior patent No. 6,488,669 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
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- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims cancelled by a re-examination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by an terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Registration No.: 38,040

Joshua L. Cohen
Signature

2/20/06
Date

Joshua L. Cohen
Typed or printed name

(610) 407-0700
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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- * Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/98 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, ALEXANDRIA, VA 22313-1450.

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